

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL HILL, }
Plaintiff, } Civil Action No. 03-323 Erie
v. }
JOHN LAMANNA, et al., }
Defendants. }

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on October 7, 2003, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 115], filed on February 23, 2007, recommended that Defendants' motion to dismiss or, in the alternative, motion for summary judgment as to the dental claims [Doc. No. 102] be granted in part and denied in part as follows: summary judgment should be granted in favor of Defendants Lamanna and Collins on the Bivens claim, while summary judgment should be denied as to the negligence claim against the United States. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Objections were filed by Defendant United States on March 2, 2007 [Doc. 117]. Objections were filed by Plaintiff on March 5, 2007 [Doc. No. 118]. After de novo review of the motion and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 12th day of March, 2007;

IT IS HEREBY ORDERED that the Defendants' motion to dismiss or, in the alternative, motion for summary judgment as to the dental claims [Doc. No. 102] is GRANTED in part and DENIED in part as follows: summary judgment is GRANTED in favor of Defendants Lamanna and Collins on the Bivins claim; summary judgment is

DENIED as to the negligence claim against Defendant United States.

The Report and Recommendation [Doc. No. 115] of Magistrate Judge Baxter, filed on February 23, 2007, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge